

INFORMATION TO OFFERORS OR QUOTERS **SECTION A - COVER SHEET**

1. SOLICITATION NUMBER

SP0600-99-R-0042

2. (X one)

a. SEALED OFFER

X b. NEGOTIATED (RFP)

c. NEGOTIATED (RFQ)

INSTRUCTIONS

NOTE THE AFFIRMATIVE ACTION REQUIREMENT OF THE EQUAL OPPORTUNITY CLAUSE WHICH MAY APPLY TO THE CONTRACT RESULTING FROM THIS SOLICITATION.

Standard Form 1449 and all applicable clauses that require completion by the contractor are included in the accompanying Offeror Submission Package.

When submitting your offer via mail, the envelope used must be plainly marked with the Solicitation Number, as shown above, and the date and local time set forth for receipt of proposals in the solicitation document, and addressed to the following:

ATTN: Bid Custodian, PCC, Room 3729
Defense Energy Support Center
8725 John J. Kingman Road, Suite 4950
Ft. Belvoir, VA 22060-6222

If submitting your offer by facsimile, please note the provisions per Clause L2.11-2 on Page 25.

***SPECIAL NOTE: This solicitation incorporates changes resulting from the Federal Acquisition Streamlining Act of 1994, and subsequent revisions, including the rewrite of FAR Part 15, CONTRACTING BY NEGOTIATION. This change has required considerable revision to the format, structure, and substantive content of the enclosed contract clauses and the attached Offeror Submission Package.

If NO RESPONSE is to be submitted, detach this sheet from the solicitation, complete the information requested on reverse, fold, affix postage, and mail. NO ENVELOPE IS NECESSARY.

Replies must be set forth full, accurate, and complete information as required by this solicitation (including attachments). The penalty for making false statements is prescribed in 18 U.S.C. 1001.

3. ISSUING OFFICE (Complete mailing address, including Zip Code)

DEFENSE ENERGY SUPPORT CENTER
8725 JOHN J. KINGMAN ROAD, SUITE 4950
FT. BELVOIR, VA 22060-6222
BUYER/SYMBOL: STEVE TIDLER/DESC-PEC

TURKEY COUPONS
PURCHASE PROGRAM 1.8q
TELEPHONE: 703-767-9516; FAX: 703-767-8506
E-MAIL: stidler@desc.dla.mil
WEBPAGE: <http://www.desc.dla.mil>

4. ITEMS TO BE PURCHASED (Brief description)

GASOLINE, AUTOMOTIVE, PREMIUM UNLEADED (MTP) 2,271,000 LITERS (599,937 USG)
FUEL OIL, DIESEL, REGULAR GRADE 605,600 LITERS (159,983 USG)
KEROSENE 75,700 LITERS (19,993 USG)
ORDERING PERIOD: 1 July 1999 through 30 June 2001

5. PROCUREMENT INFORMATION (X and complete as applicable)

X a. THIS PROCUREMENT IS UNRESTRICTED

b. THIS PROCUREMENT IS A ____% SET-ASIDE FOR ONE OF THE FOLLOWING (X One). (See Section I of the Table of Contents in this solicitation for details of the set-aside.)

(1) Small Business

(2) Labor Surplus Area Concerns

(3) Combined Small Business/Labor Area Concerns

IMPORTANT INFORMATION

A. The closing date for this solicitation is March 11, 1999, 3:00 p.m. local time, Ft. Belvoir, VA.

B. Any contract awarded as a result of this solicitation will be a Requirements-Fixed Price with Economic Price Adjustment. Please refer to Clause I84, REQUIREMENTS.

C. Clause L3.02, LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF PROPOSALS, has been incorporated into Clause L2.05-2, INSTRUCTIONS TO OFFERORS – COMMERCIAL ITEMS (PC&S), paragraph (g) LATE OFFERS, subparagraph (2) **FOR RFPs**. Please review Clause L2.05-2.

7. POINT OF CONTACT FOR INFORMATION

a. NAME (Last, First, Middle Initial)

TIDLER, STEPHEN L.

b. ADDRESS (Including Zip Code)

DEFENSE ENERGY SUPPORT CENTER
ATTN: DESC-PEC

c. TELEPHONE NUMBER (Including Area Code and Extension) (NO COLLECT CALLS) 703-767-9516

8725 JOHN J. KINGMAN ROAD, SUITE 4950
FT. BELVOIR, VA 22060-6222

8. REASONS FOR NO RESPONSE (<i>X all that apply</i>)			
a. CANNOT COMPLY WITH SPECIFICATIONS		b. CANNOT MEET DELIVERY REQUIREMENTS	
c. UNABLE TO IDENTIFY THE ITEM(S)		d. DO NOT REGULARLY MANUFACTURE OR SELL THE TYPE OF ITEMS INVOLVED	
e. OTHER (<i>Specify</i>)			
9. MAILING LIST INFORMATION (<i>X one</i>)			
YES	NO	WE DESIRE TO BE RETAINED ON THE MAILING LIST FOR FUTURE PROCUREMENT OF THE TYPE OF ITEM(S) INVOLVED.	
10. RESPONDING FIRM			
a. COMPANY NAME		b. ADDRESS (<i>Including Zip Code</i>)	
c. ACTION OFFICER			
(1) Typed or Printed Name (<i>Last, First, Middle Initial</i>)	(2) Title	(3) Signature	(4) Date Signed (YYMMDD)

DD Form 1707 Reverse, MAR 90

FOLD

FOLD

FOLD

FROM

FOLD

AFFIX
STAMP
HERE

SOLICITATION NUMBER	
SP0600-99-R-0042	
DATE (YYMMDD)	LOCAL TIME
990311	3:00 PM

TO Defense Energy Support Center
ATTN: DESC-PCC, Room 3729
8725 John J. Kingman Road, Suite 4950
Ft. Belvoir, VA 22060-6222

D. Please complete and submit the forms contained in the accompanying "Offeror Submission Package" as your offer. Please note the clauses marked with an ➔. These clauses may require completion. Copies of all documents submitted must be exactly the same as the original.

E. Facsimile proposals (offers) may be submitted in accordance with Clauses L2.11-2, FACSIMILE OFFERS. The DESC facsimile number is (703) 767-8506.

F. NOTICE: If your firm does not wish to offer on this solicitation, but does wish to remain on the mailing list, this form must be returned to DESC within 30 days after the closing date of the solicitation. FAILURE to respond within the time frame may result in automatic removal from the mailing list for this program.

G. DESC contact point and telephone number for emergency situations during after-duty hours:

Command Control Center
Telephone Number (703)767-8420

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30				1. REQUISITION NUMBER SC0600-99-0563		PAGE 1 OF 39	
2. CONTRACT NUMBER		3. AWARD/EFFECTIVE DATE		4. ORDER NUMBER		5. SOLICITATION NUMBER SP0600-99-R-0042	
6. SOLICITATION ISSUE DATE 05 February 1999		7. FOR SOLICITATION INFORMATION CALL: Stephen Tidler		8. OFFER DUE DATE/LOCAL TIME 11 March 1999, 3:00 p.m. Fort Belvoir, VA			
9. ISSUED BY CODE Defense Fuel Supply Center 8725 John J. Kingman Road, Suite 4950 Fort Belvoir, VA 22060-6222 Buyer/Symbol: S. Tidler/DESC-PEC Phone: (703) 767-9516 P.P. 1.8q				10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE % FOR <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> SMALL DISADV BUSINESS <input type="checkbox"/> 8(A) SIC: 5172 SIZE STANDARD: 500		11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input checked="" type="checkbox"/> SEE SCHEDULE	
				12. DISCOUNT TERMS		13a. THIS CONTRACT IS RATED ORDER UNDER DPAS (15 CFR 700)	
				13b. RATING		14. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP	
15. DELIVER TO CODE SEE SCHEDULE				16. ADMINISTERED BY CODE Defense Energy Support Center Europe (DESC-EU) Augusta Strasse No. 6 65189 Wiesbaden, Germany			
17a. CONTRACTOR/OFFEROR BIDDER CODE		FACILITY CAGE CODE		18a. PAYMENT WILL BE MADE BY CODE SEE CLAUSE F30.01			
<input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER <input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER				18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a. UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM			
19. ITEM NO.		20. SCHEDULE OF SUPPLIES/SERVICES		21. QUANTITY		22. UNIT	
		(Attach additional Sheets as Necessary)				SEE ATTACHED	
						SEE ATTACHED	
25. ACCOUNTING AND APPROPRIATION DATA SEE CLAUSE G18						26. TOTAL AWARD AMOUNT (For Govt. Use Only)	
<input checked="" type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA <input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED. *SCHEDULE OF SUPPLIES AND SOLICITATION PROVISIONS AND CONTRACT CLAUSES ARE ATTACHED. <input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.							
<input checked="" type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 2 COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS AND CONDITIONS SPECIFIED HEREIN.				<input type="checkbox"/> 29. AWARD OF CONTRACT: REFERENCE _____ OFFER DATED _____. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: _____.			
30a. SIGNATURE OF OFFEROR/CONTRACTOR				31a. UNITED STATES OF AMERICA (Signature of Contracting Officer)			
30b. NAME AND TITLE OF SIGNER (Type or Print)		30c. DATE SIGNED		31b. NAME OF CONTRACTING OFFICER (Type or Print)		31c. DATE SIGNED	
32a. QUANTITY IN COLUMN 21 HAS BEEN <input type="checkbox"/> RECEIVED <input type="checkbox"/> INSPECTED <input type="checkbox"/> ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED				33. SHIP NUMBER		34. VOUCHER NUMBER	
				<input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL		35. AMOUNT VERIFIED CORRECT FOR	
32b. SIGNATURE OF AUTHORIZED GOVT. REPRESENTATIVE		32c. DATE		36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL		37. CHECK NUMBER	
				38. S/R ACCOUNT NO.		39. S/R VOUCHER NO.	
41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT				42a. RECEIVED BY (Print)		40. PAID BY	
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER		41c. DATE		42b. RECEIVED AT (Location)			
				42c. DATE REC'D (YY/MM/DD)		42d. TOTAL CONTAINERS	

AUTHORIZED FOR LOCAL REPRODUCTION

STANDARD FORM 1449
Prescribed by GSAFAR (48 CFR) 53.212

INDEX**CONTINUATION OF STANDARD FORM 1449**

CONTINUATION OF BLOCK 19-24 OF STANDARD FORM 1449: THE SCHEDULE

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LIST OF ATTACHMENTS

THE FOLLOWING ARE INCLUDED IN THIS SOLICITATION:

DD FORM 1707, INFORMATION TO OFFERORS OR QUOTERS	COVER SHEET
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OFFEROR SUBMISSION PACKAGE	SEPARATE COVER

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B1.05 SUPPLIES TO BE FURNISHED (OVERSEAS PC&S/ALASKA) (DESC MAY 1996)

(a) The supplies to be furnished during the period specified in the REQUIREMENTS clause, the delivery points, methods of delivery, and estimated quantities are shown below. The quantities shown are best estimates of required quantities only. Unless otherwise specified, the total quantity ordered and required to be delivered may be greater than or less than such quantities. The Government agrees to order from the Contractor and the Contractor shall, if ordered, deliver during the contract period all items awarded under this contract. The prices paid shall be the unit prices specified in subsequent price change modifications issued in accordance with the ECONOMIC PRICE ADJUSTMENT clause.

(b) In an emergency, oral orders may be issued and must be confirmed in writing by an SF 1449 or DD Form 1155 within 24 hours.

(c) Offers shall not be submitted for quantities less than the estimated quantities specified below for each line item. Offers submitted for less than the estimated quantities will not be considered for award, except for items specifically designated as **two**-year requirements.

<u>ITEMS</u>	<u>SUPPLIES, DELIVERY POINTS, AND METHOD OF DELIVERY</u>	<u>ESTIMATED QUANTITY</u>
-78	FUEL OIL, DIESEL, REGULAR GRADE (DAT), NSN: 9140-27-000-9012 TURKISH SPECIFICATION: TUPRAS 400	159,983 U.S. GALLONS
-79	GASOLINE, AUTOMOTIVE, PREMIUM UNLEADED, (MTP) NSN: 9130-27-000-9004 TURKISH SPECIFICATION: TUPRAS 240	599,937 U.S. GALLONS
-81	KEROSENE (KTN) NSN: 9140-27-000-9006 TURKISH SPECIFICATION: TUPRAS 350	19,993 U.S. GALLONS

(DESC 52.207-9F55)

SPECIAL NOTE:

The above details all products and applicable specifications. Offers should be made for the individual line items as listed on the following pages.

B1.05 (CONT'D)

ITEM NUMBER	EST. QTY. IN LITERS (US Gallons)
<hr/> DEPARTMENT OF THE AIR FORCE TURKEY <hr/>	
999-78 Diesel Fuel Grade DF-2	In exchange for delivery/use of fuel by authorized U.S. Government-owned vehicles or authorized privately-owned vehicles at designated filling stations in the areas of Ankara, Izmir, Adana, Istanbul Aksaray, Afyon, Eskisehir and Antalya. Diesel coupons are to be issued in 100-liter books, with each book including 5 (five) 20-liter coupons, and in 25-liter books, with each book including 5 (five) 5-liter coupons. <div>605,600 (159,983)</div>
999-79 Gasoline Premium Unleaded	In exchange for delivery/use of fuel by authorized US Government-owned vehicles or authorized privately-owned vehicles at designated filling stations in the areas of Ankara, Izmir, Adana, Istanbul, Aksaray, Afyon, Eskisehir and Antalya. Gasoline coupons are to be issued in 100-liter books, with each book including 10 (ten) 10-liter coupons, and in 25-liter books, with each book including 5 (five) 5-liter coupons. <div>2,271,000 (599,937)</div>
999-81 Kerosene	In exchange for delivery/use of fuel by authorized DOD personnel at designated filling stations in the areas of Adana, Incirlik and Izmir. Kerosene coupons are to be issued in 40-liter books, with each book including 8 (eight) 5-liter coupons. <div>75,700 (19,993)</div>

B1.05 (CONT'D)**SPECIAL NOTES**

1. **Property Administrator**: The Property Administrator for this contract is the AAFES Regional Office at Incirlik Air Base. The address is: Regional Office, Unit 7150, Box 260, APO AE 09824. The commercial phone number is City Code (322) 346-3832, and the commercial fax number is (322) 346-2450. The Property Administrator shall maintain a register/log at each sales outlet, listing the sold coupon booklet's serial numbers and the name and Social Security Number of each individual booklet purchaser.

2. Coupons will be valid only at service stations within the geographical locations of Ankara, Izmir, Incirlik, Adana, Istanbul, Aksaray, Afyon, Eskisehir and Antalya, as designated and listed below by the offeror. These stations may change only after mutual agreement between DESC and the resultant contractor.

Designated Service StationLocation/Address

3. Coupons will be printed in Turkish to indicate the purpose of the coupons, the quantity value of each coupon, and the validity date and the product for which the coupon is intended. The coupons will be issued in the following denominations for the respective products;

(a) Gasoline, Premium Unleaded: 100-liter books, each composed of 10 (ten) 10-liter coupons; and 25-liter books, each composed of 5 (five) 5-liter coupons.

(b) Diesel Fuel, DF-2: 100-liter books, each composed of 5 (20-liter coupons); and 25-liter books, each composed of 5 (five) 5-liter coupons.

(c) Kerosene: 40-liter books, each composed of 8 (eight) 5-liter coupons.

4. Coupons will be printed in different colors for each product, with the words "AAFES COUPON" on the front, and with serial numbers to denote the respective products.

5. Diesel fuel and gasoline coupons may only be used to purchase fuel for U.S. Government-owned vehicles or for privately owned vehicles belonging to eligible American Department of Defense (DOD) personnel and their dependents. These coupons may be used at any designated station in the Ankara, Izmir, Adana, Istanbul, Aksaray, Afyon, Eskisehir Incirlik and Antalya areas. Turkish nationals who are employed by the US. Government or by an U.S. Contractor will be permitted to refuel U.S. Government or authorized U.S. Contractor-owned vehicles using diesel fuel or gasoline coupons. Turkish national will not be permitted to refuel privately owned vehicles of American DOD personnel using diesel fuel or gasoline coupons. Kerosene coupons may only be used to purchase fuel by American DOD personnel and their dependents to be utilized for home heating. Kerosene coupons may be used at any designated service station in the Adana, Izmir and Incirlik areas. Turkish nationals will not be permitted to use kerosene coupons to purchase fuel.

B1.05 (CONT'D)**SPECIAL NOTES (continued)**

6. The trading or selling of these coupons to Turkish nationals, or the trading of coupons for product, is a violation of Turkish law.
7. The ordered coupon booklets will be delivered to the AAFES Regional Office at Incirlik Air Base (see Special Note 1).
8. Coupons will expire at the end of the ordering period (30 June 2001) per Clause F4, Delivery and Ordering Periods. However, in the event that there are sold but unused coupons at the end of the ordering period, the Property Administrator will notify the Contractor (prior to 30 June 2001) of the estimated numbers of sold but unused coupons and their serial numbers. The Contractor will then advise its designated stations (see Special Note 2) that authorized coupons (those purchased during the contract period) will be accepted after the expiration date of 30 June 2001, for a period of no more than 60 days (through 29 August 2001). The Property Administrator will then dispose of the unsold coupons in accordance with U.S. Government procedures.
9. **Invoicing and Paying Office:** The Contractor will only invoice for coupons that are used/cancelled during each month. The Contractor shall submit monthly invoices to the Paying Office designated in Clause F30.01, Ordering and Paying Officers (Overseas PC&S). Invoices must list the serial numbers of the used/cancelled coupons. The Contractor shall submit each month's worth of used/cancelled coupons to the Property Administrator for preparation of the Government Receiving Report (DD Form 250). When submitting used/cancelled coupons, they are to be separated by product. Copies of the completed DD 250 shall be sent by the Property Administrator to the Paying Office noted in Clause F30.01 for payment reconciliation, and to the Defense Energy Office - Turkey (DEO-T) for tax exemption purposes.

PREAWARD**K1.01-10 OFFEROR REPRESENTATIONS AND CERTIFICATIONS - COMMERCIAL ITEMS (DEVIATION) (ALT III)
(OCT 1998/JAN 1999)****(a) DEFINITIONS.** As used in this provision--

(1) **Emerging small business** means a small business concern whose size is no greater than 50 percent of the numerical size standard for the standard industrial classification code designated.

(2) **Small business concern** means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and size standards in this solicitation.

(3) Women-owned small business concern means a small business concern--

(i) Which is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(ii) Whose management and daily business operations are controlled by one or more women.

(4) **Women-owned business concern** means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(b) TAXPAYER IDENTIFICATION NUMBER (TIN) (26 U.S.C. 6050M).**(i) TAXPAYER IDENTIFICATION NUMBER (TIN).**

☐ TIN: _____

☐ TIN has been applied for.

☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the U.S. and does not have an office or place of business or a fiscal paying agent in the U.S.

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of a Federal, state, or local government;

☐ Other. State basis. _____

(ii) CORPORATE STATUS.

☐ Corporation providing medical and health care services, or engaged in the billing and collecting of payments for such services;

☐ Other corporate entity;

☐ Not a corporate entity;

☐ Sole proprietorship

☐ Partnership

☐ Hospital or extended care facility described in 26 CFR 501(c)(3) that is exempt from taxation under 26 CFR

501(a).

(iii) COMMON PARENT.

☐ Offeror is not owned or controlled by a common parent.

☐ Name and TIN of common parent:

Name _____

TIN _____

(c) Offerors must complete the following representations when the resulting contract is to be performed inside the United States, its territories or possessions, Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia. Check all that apply.

(1) SMALL BUSINESS CONCERN. The offeror represents that it--

☐ is

☐ is not

K1.01-10 (CONT'D)

a small business concern.

(2) **SMALL DISADVANTAGED BUSINESS CONCERN.** The offeror represents that it--

☐ is
☐ is not

a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) **WOMEN-OWNED SMALL BUSINESS CONCERN.** The offeror represents that it--

☐ is
☐ is not

a women-owned small business concern.

NOTE: Complete paragraphs (c)(4) and (c)(5) only if this solicitation is expected to exceed the simplified acquisition threshold.

(4) **WOMEN-OWNED BUSINESS CONCERN.** The offeror represents that it -

☐ is
☐ is not

a woman owned business concern.

(5) **TIE BID PRIORITY FOR LABOR SURPLUS AREA CONCERNS.** If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price.

(6) **SMALL BUSINESS SIZE FOR THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM AND FOR THE TARGETED INDUSTRY CATEGORIES UNDER THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.** (Complete only if the offeror has represented itself to be a small business concern under the size standards for this solicitation.)

(i) **(Complete only for solicitations indicated in an addendum as being set-aside for emerging small businesses in one of the four designated industry groups (DIGs)).** The offeror represents as part of its offer that it--

☐ is
☐ is not

an emerging small business.

(ii) **(Complete only for solicitations indicated in an addendum as being for one of the targeted industry categories (TICs) or four designated industry groups (DIGs)).** The offeror represents as follows:

(A) The offeror's number of employees for the past 12 months (check the Employees column if size standard stated in the solicitation is expressed in terms of number of employees); or

(B) The offeror's average annual gross revenue for the last 3 fiscal years (check the Average Annual Gross Number of Revenues column if size standard stated in the solicitation is expressed in terms of annual receipts).

K1.01-10 (CONT'D)

(Check one of the following:)

NUMBER of EMPLOYEES

- ☐ 50 or fewer
☐ 51 - 100
☐ 101 - 250
☐ 251 - 500
☐ 501 - 750
☐ 751 - 1,000
☐ Over 1,000

AVERAGE ANNUAL GROSS REVENUES

- ☐ \$1 million or less
☐ \$1,000,001 - \$2 million
☐ \$2,000,001 - \$3.5 million
☐ \$3,500,001 - \$5 million
☐ \$5,000,001 - \$10 million
☐ \$10,000,001 - \$17 million
☐ Over \$17 million

(7) (Complete only if the solicitation contains the clause at FAR 52.219-23, Notice of Price Evaluation Adjustment for Small Business Disadvantaged Business Concerns, and the offeror desires a benefit based on its disadvantaged status.)

(i) GENERAL. The offeror represents that either--

(A) It--

- ☐ is
☐ is not

certified by the Small Business Administration as a small disadvantaged business concern and is listed, on the date of this representation, on the register of small disadvantaged business concerns maintained by the Small Business Administration, and that no material change in disadvantaged ownership and control has occurred since its certification, and, where the concern is owned by one or more individuals claiming disadvantaged status, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); or

(B) It--

- ☐ has
☐ has not

submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(ii) JOINT VENTURE UNDER THE PRICE EVALUATION ADJUSTMENT FOR SMALL BUSINESS CONCERNS.

The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements in 13 CFR 124.1002(f) and that the representation in paragraph (c)(7)(i) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture:

(8) HUBZONE SMALL BUSINESS CONCERN. (Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.) The offeror represents as part of its offer that--

(i) It--

- ☐ is
☐ is not

a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal place of ownership, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126; and

K1.01-10 (CONT'D)

(ii) It--

☐ is☐ is not

a joint venture that complied with the requirements of 13 CFR Part 126, and the representations in paragraph (c)(8)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. **(The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture:)**

_____	_____
_____	_____
_____	_____
_____	_____

Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(d) CERTIFICATIONS AND REPRESENTATIONS REQUIRED TO IMPLEMENT PROVISIONS OF EXECUTIVE ORDER 11246.

(1) PREVIOUS CONTRACTS AND COMPLIANCE. The offeror represents that--

(i) It--

☐ has☐ has not

participated in a previous contract or subcontract subject either to the EQUAL OPPORTUNITY clause of this solicitation, the clause originally contained in Section 310 of Executive Order 10925, or the clause contained in Section 201 of Executive Order 11114; and

(ii) It--

☐ has☐ has not

filed all required compliance reports.

(2) AFFIRMATIVE ACTION COMPLIANCE. The offeror represents that--

(i) It--

☐ has developed and has on file☐ has not developed and does not have on file

at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR Subparts 60-1 and 60-2), or

(ii) It--

☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

K1.01-10 (CONT'D)

(e) **CERTIFICATION REGARDING PAYMENTS TO INFLUENCE FEDERAL TRANSACTIONS (31 U.S.C. 1352).** (Applies only if the contract is expected to exceed \$100,000). By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract.

(f) **BUY AMERICAN ACT - TRADE AGREEMENTS - BALANCE OF PAYMENTS PROGRAM CERTIFICATE.** (Applies only if DFARS clause 252.225-7007, TRADE AGREEMENTS ACT, is included in this solicitation.)

(1) The offeror certifies that--

(i) Each end product, except the end products listed in subparagraph (2) below, is a domestic end product (as defined in the BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM clause of this solicitation); and

(ii) Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror must identify and certify all end products that are not domestic end products.

(i) The offeror certifies that the following supplies qualify as "U.S.-made end products" but do not meet the definition of "domestic end product":

(Insert line item no.)

(ii) The offeror certifies that the following supplies are qualifying country end products:

(Insert line item no.)

(Insert country of origin)

(iii) The offeror certifies that the following supplies are qualify as designated country end products:

(Insert line item no.)

(Insert country of origin)

(iv) The offeror certifies that the following supplies qualify as Caribbean Basin country end products:

(Insert line item no.)

(Insert country of origin)

(v) The offeror certifies that the following supplies qualify as NAFTA country end products:

(Insert line item no.)

(Insert country of origin)

(vi) The offeror certifies that the following supplies are other nondesignated country end products:

(Insert line item no.)

(Insert country of origin)

(LIST AS NECESSARY)

(3) Offers will be evaluated by giving preference to U.S.-made end products, qualifying country end products, designated country end products, NAFTA country end products, and Caribbean Basin country end products over other end products.

(g) **BUY AMERICAN ACT - NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA) IMPLEMENTATION ACT - BALANCE OF PAYMENTS PROGRAM CERTIFICATE.** (Applies only if DFARS clause 252.225-7036, NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA) IMPLEMENTATION ACT, clause is included in this solicitation.)

K1.01-10 (CONT'D)

(1) The offeror certifies that--

- (i) Each end product, except the end products listed in subparagraph (2) below, is a domestic end product (as defined in the BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM clause of this solicitation); and
- (ii) Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror must identify and certify all end products that are not domestic end products.

- (i) The offeror certifies that the following supplies qualify as "U.S.-made end products," but do not meet the definition of "domestic end products":

(Insert line item number)

- (ii) The offeror certifies that the following supplies are qualifying country (except Canada) end products:

(Insert line item number)

(Insert country of origin)

- (iii) The offeror certifies that the following supplies qualify as NAFTA country end products:

(Insert line item number)

(Insert country of origin)

- (iv) The offeror certifies that the following supplies are other non-NAFTA country end products:

(Insert line item number)

(Insert country of origin)

(LIST AS NECESSARY)

(3) Offers will be evaluated by giving preference to U.S.-made end products, qualifying country end products, or NAFTA country end products over other end products.

(h) CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY FOR AWARD (EXECUTIVE ORDER 12549).

The offeror certifies, to the best of its knowledge and belief, that--

- (1) The offeror and/or any of its principals

[] are

[] are not

presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency, and

- (2) [] Have or

[] Have not,

within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract ; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

K1.01-10 (CONT'D)

- [] are or
[] are not

presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

(FAR 52.212-3/Alt III)

K1.05 OFFEROR REPRESENTATIONS AND CERTIFICATIONS - COMMERCIAL ITEMS (NOV 1995)

(a) **DEFINITIONS.** As used in this clause--

(1) **Foreign person** means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec 2415).

(2) **United States person** is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

(b) **CERTIFICATION.** By submitting this offer, the offeror, if a foreign person, company, or entity, certifies that it--

(1) Does not comply with the Secondary Arab Boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. Sec 2407(a) prohibits a United States person from taking.

(DFARS 252.212-7000)

L2.05-5 INSTRUCTIONS TO OFFERORS - COMMERCIAL ITEMS (PC&S) (DESC AUG 1998)

(a) **AMENDMENTS TO SOLICITATIONS.** If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(b) **SUBMISSION, MODIFICATION, REVISION, AND WITHDRAWAL OF OFFERS.**

(1) Unless other methods (e.g., electronic commerce or facsimile) are permitted in the solicitation, signed and dated offers and modifications thereto shall be submitted in paper media in sealed envelopes or packages (i) addressed to the office specified in the solicitation, and (ii) showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror at or before the exact time specified in this solicitation. Offerors using commercial carriers should ensure that the offer is marked on the outermost wrapper with the information in subdivisions (i) and (ii) above. Offers may be submitted on the SF 1449, letterhead stationery, or as otherwise specified in the solicitation.

(2) The first page of the offer must show--

(i) The solicitation number;

(ii) The name, address, and telephone and facsimile numbers of the offeror (and electronic address if available);

(iii) Include name, title, and signature of person authorized to sign the offer. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

(iv) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;

(v) Terms of any express warranty;

(vi) Price and any discount terms; and

(vii) A completed copy of the representations and certifications in the Offeror Submission Package.

(3) **IFBs ONLY.**

(i) Facsimile bids are authorized for this solicitation.

(ii) **EVALUATION - Net Payment Terms.** Offers under an IFB that include net payment terms less than 30 days will be determined nonresponsive.

(4) **RFPs ONLY.**

(i) If the offer is not submitted on the SF 1449, include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or that reject the terms and conditions of the solicitation may be excluded from consideration.

(ii) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and

L2.05-5 (CONT'D)

(c) **STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE AND SMALL BUSINESS SIZE STANDARD.** The SIC code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF 1449). However, the small business size standard for a concern that submits an offer in its own name, but which proposes to furnish an item that it did not itself manufacture, is 500 employees.

(d) **PERIOD FOR ACCEPTANCE OF OFFERS.** The offeror agrees to hold the prices in its offer firm for **100** calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

(e) **PRODUCT SAMPLES.** When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall be submitted at no expense to the Government, and returned at the sender's request and expense, unless they are destroyed during preaward testing.

(f) **MULTIPLE OFFERS.** Offerors are encouraged to submit multiple offers presenting alternative terms and conditions or commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.

(g) **LATE OFFERS.**

(1) **FOR IFBs.** See the LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS provision in Addendum 1.

(2) **FOR RFPs.**

(i) Any proposal received at the office designated in the solicitation after the exact time specified for receipt of offers will not be considered unless it is received before award is made and--

(A) It was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

(B) It was sent by mail (or telegram or facsimile, if authorized) or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to Government mishandling after receipt at the Government installation;

(C) It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term **working days** excludes weekends and U.S. Federal holidays;

(D) It was transmitted through an electronic commerce method authorized by the solicitation and was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals;

(E) There is acceptable evidence to establish that it was received at the activity designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers, and the Contracting Officer determines that accepting the late offer would not unduly delay the procurement; or

(F) It is the only proposal received.

(ii) Any modification or revision of a proposal or response to request for information, including any final proposal revision, is subject to the same conditions as in subparagraphs (c)(3)(i)(A) through (c)(3)(i)(E) of this provision.

(iii) The only acceptable evidence to establish the date of mailing of a late proposal or modification or revision sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the proposal, response to a request for information, or modification or revision shall be processed as if mailed late. **Postmark** means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, offeror or respondents should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(iv) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(v) The only acceptable evidence to establish the date of mailing of a late offer, modification or revision, or withdrawal sent by Express mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. **Postmark** has the same meaning as defined in paragraph (c)(3)(iii) of this provision, excluding postmarks of the Canadian Postal Service. Therefore, offerors or respondents should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(vi) Notwithstanding paragraph (c)(3)(i) of this provision, a late modification or revision of an otherwise successful proposal that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(vii) Proposals may be withdrawn by written notice or telegram (including mailgram) received at any time before award. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the FACSIMILE PROPOSALS provision. Proposals may be withdrawn in person by an offeror or an authorized representative, if the representative's identity is made known and the representative signs a receipt for the proposal before award.

L2.05-5 (CONT'D)

(viii) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume. If no time is specified in the solicitation, the time for receipt is **3:00 p.m.**, local time for the designated Government office.

(h) Unless otherwise specified in the solicitation, the offeror may propose to provide any item or combination of items.

(i) Proposals submitted in response to this solicitation shall be in English and in U.S. dollars unless otherwise permitted by the solicitation.

(j) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.

(k) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.

(l) CONTRACT AWARD.

(1) RFPs ONLY (not applicable to IFBs).

(i) While the Government intends to evaluate offers and award a contract without discussions, it reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary.

(ii) The Government intends to evaluate proposals and award a contract after conducting discussions with offerors whose proposals have been determined to be within the competitive range. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. Therefore, the offeror's initial proposal should contain the offeror's best terms from a price and technical standpoint.

(iii) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.

(2) The Government intends to award a contract or contracts resulting from this solicitation to the responsible offeror(s) whose offer(s) conforming to the solicitation will be most advantageous to the Government, cost or price and other factors (including subfactors) specified elsewhere in this solicitation, considered.

(3) The Government may reject any or all offers if such action is in the Government's interest.

(4) The Government may waive informalities and minor irregularities in offers received.

(5) The Government may accept any item or group of items of a proposal, unless the offeror qualifies the proposal by specific limitations. Unless otherwise provided in the Schedule, proposals may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.

(6) A written award or acceptance of offer mailed or otherwise furnished to the successful offeror within the time specified in the offer shall result in a binding contract without further action by either party.

(7) The Government may disclose the following information in postaward debriefings to other offerors:

(i) The overall evaluated cost or price and technical rating of the successful offeror;

(ii) The overall ranking of all offerors, when any ranking was developed by the agency during source selection;

(iii) A summary of the rationale for award; and

(iv) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(m) AVAILABILITY OF REQUIREMENTS DOCUMENTS CITED IN THE SOLICITATION.

(1) (i) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to--

GSA, FEDERAL SUPPLY SERVICE SPECIFICATIONS SECTION
470 L'ENFANT PLAZA, SW, SUITE 8100
WASHINGTON, DC 20407
TELEPHONE: (202) 619-8925
FAX: (202) 619-8978

(ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the address in (i) above. Additional copies will be issued for a fee.

L2.05-5 (CONT'D)

- (2) The DOD Index of Specifications and Standards (DoDISS) and documents listed in it may be obtained from the--

DEPARTMENT OF DEFENSE SINGLE STOCK POINT (DODSSP)
 BUILDING 4, SECTION D
 700 ROBBINS AVENUE
 PHILADELPHIA, PA 19111-5094
 TELEPHONE: (215) 697-2667/2179
 FAX: (215) 697-1462

- (i) Automatic distribution may be obtained on a subscription basis.
- (ii) Order forms, pricing information, and customer support information may be obtained--
 - (A) By telephone at (215) 697-2667/2179; or
 - (B) Through the DoDSSP Internet site at <http://www.dodssp.dla.mil>.

- (3) Nongovernment (voluntary) standards must be obtained from the organization responsible for their preparation, publication, or maintenance.

(n) **DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER.** (Applies to offers exceeding \$25,000.) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" followed by the DUNS number that identifies the offeror's name and address. If the offeror does not have a DUNS number, it should contact Dun and Bradstreet to obtain one at no charge. An offeror within the United States may call 1-800-333-0505. The offeror may obtain more information regarding the DUNS number, including locations of local Dun and Bradstreet Information Services offices for offerors located outside the United States, from the Internet home page at <http://www.dnb.com/>. If an offeror is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at globalinfo@mail.dnb.com.

(FAR 52.212-1, tailored)

POSTAWARD**11.03-1 CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (APR 1998)**

(a) **INSPECTION/ACCEPTANCE.** The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its post-acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) **ASSIGNMENT.** The Contractor or its assignee's right to be paid amounts due as a result of performance of this contract, may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727).

(c) **CHANGES.** Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) **DISPUTES.** This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, DISPUTES, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) **DEFINITIONS.** The clause at FAR 52.202-1, DEFINITIONS, is incorporated herein by reference.

(f) **EXCUSABLE DELAYS.** The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the control of the Contractor and without its fault or negligence, such as acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) **INVOICE.** The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include--

- (1) Name and address of the Contractor;
- (2) Invoice date;
- (3) Contract number, contract line item number, and, if applicable, the order number;
- (4) Description, quantity, unit of measure, unit price, and extended price of the item delivered;
- (5) Shipping number and date of shipment including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (6) Terms of any prompt payment discount offered;
- (7) Name and address of official to whom payment is to be sent; and
- (8) Name, title, and phone number of person to be notified in event of defective invoice.

Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A-125, Prompt Payment. Contractors are encouraged to assign an identification number to each invoice.

(h) **PATENT INDEMNITY.** The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) **PAYMENT.** Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A-125, Prompt Payment. Unless otherwise provided by an addendum to this contract, the Government shall make payment in accordance with FAR Clause 52.232-33, MANDATORY INFORMATION FOR ELECTRONIC FUNDS TRANSFER PAYMENT, which is incorporated herein by reference. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purposes of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the date on which an electronic funds transfer was made.

(j) **RISK OF LOSS.** Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon--

- (1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
- (2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) **TAXES.** The contract price includes all applicable Federal, State, and local taxes and duties.

11.03-1 (CONT'D)

(l) **TERMINATION FOR THE GOVERNMENT'S CONVENIENCE.** The Government reserves the right to terminate this contract, or any part thereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms and conditions of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purposes. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) **TERMINATION FOR CAUSE.** The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) **TITLE.** Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) **WARRANTY.** The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) **LIMITATION OF LIABILITY.** Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) **OTHER COMPLIANCES.** The Contractor shall comply with all applicable Federal, State, and local laws, executive orders, rules, and regulations applicable to its performance under this contract.

(r) **COMPLIANCE WITH LAWS UNIQUE TO GOVERNMENT CONTRACTS.** The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 327 et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986, 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistle blower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

(s) **ORDER OF PRECEDENCE.** Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

- (1) The schedule of supplies/services;
- (2) The Assignments; Disputes, Payments; Invoices; Other Compliances; and Compliance with Laws Unique to Government Contracts paragraphs of this clause;
- (3) The clause at 52.212-5;
- (4) Addenda to this solicitation or contract, including any license agreements for computer software;
- (5) Solicitation provisions if this is a solicitation;
- (6) Other paragraphs of this clause;
- (7) Standard Form 1449;
- (8) Other documents, exhibits, and attachments; and
- (9) The specification.

(FAR 52.212-4)

11.04 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS - COMMERCIAL ITEMS (JAN 1999)

(a) The Contractor agrees to comply with the following FAR clauses, which are incorporated in this contract by reference, to implement provisions of law or executive orders applicable to acquisitions of commercial items:

- (1) 52.222-3, Convict Labor (E.O. 11755); and
- (2) 52.233-3, Protest After Award (31 U.S.C. 3553).

(b) The Contractor agrees to comply with the FAR clauses in this paragraph (b), which the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items or components:

(Contracting Officer shall check as appropriate.)

☒ 52.203-6, Restrictions on Subcontractor Sales to the Government, with Alternate I (41 U.S.C. 253g and 10 U.S.C. 2402).

☐ 52.219-3, Notice of Total HUBZone Small Business Set-Aside (Jan 1999).

☐ 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jan 1999) (if the offeror elects to waive the preference, it shall so indicate in its offer).

☐ 52.219-8, Utilization of Small Business Concerns (15 U.S.C. 637(d)(2) and (3)).

☐ 52.219-9, Small Business Subcontracting Plan (15 U.S.C. 637 (d)(4)).

☐ 52.219-14, Limitation on Subcontracting (15 U.S.C. 637(a)(14)).

☐ 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer). ☐ Alt I.

☐ 52.219-25, Small Disadvantaged Business Participation Program - Disadvantaged Status and Reporting (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

☐ 52.219-26, Small Disadvantaged Business Participation Program - Incentive Subcontracting (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

☐ 52.222-21, Prohibition of Segregated Facilities (Feb 1999).

☐ 52.222-26, Equal Opportunity (E.O. 11246).

☐ 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212).

☐ 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793).

☐ 52.222-37, Employment Reports on Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212).

☐ 52.225-3, Buy American Act - Supplies (41 U.S.C 10).

☐ 52.225-9, Buy American Act - Trade Agreements Act - Balance of Payments Program (41 U.S.C. 10, 19 U.S.C. 2501-2582).

☐ 52.225-18, European Union Sanction for End Products (E.O. 12849).

☐ 52.225-19, European Union Sanction for Services (E.O. 12849).

11.04 (CONT'D)

☐ 52.225-21, Buy American Act - North American Free Trade Agreement Implementation Act - Balance of Payments Program (41 U.S.C. 10, Pub. L. 103-187). ☐ Alt I.

☐ 52.239-1, Privacy or Security Safeguards (5 U.S.C. 552a).

☐ 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (46 U.S.C. 1241).

(c) The Contractor agrees to comply with FAR clauses in this paragraph (c), applicable to commercial services, which the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items or components:

(Contracting Officer check as appropriate)

☐ 52.222-41, Service Contract Act of 1965, as amended (41 U.S.C. 351, et seq.).

☐ 52.222-42, Statement of Equivalent Rates for Federal Hires (29 U.S.C. 206 and 41 U.S.C. 351 et seq.).

☐ 52.222-43, Fair Labor Standards Act and Service Contract Act - Price Adjustment (Multiple Year and Option Contracts) (29 U.S.C. 206 and 41 U.S.C. 351 et seq.).

☐ 52.222-44, Fair Labor Standards Act and Service Contract Act - Price Adjustment (29 U.S.C. 206 and 41 U.S.C. 351 et seq.).

☐ 52.222-47, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreement (CBA) (41 U.S.C. 351 et seq.).

(d) **COMPTROLLER GENERAL EXAMINATION OF RECORD.** The Contractor agrees to comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, AUDIT AND RECORDS - NEGOTIATION.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the DISPUTES clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c) and (d) of this clause, the Contractor is not required to include any FAR clause, other than those listed below (and as may be required by any addenda to this paragraph to establish the reasonableness of prices under Part 15), in a subcontract for commercial items or commercial components:

52.222-26, Equal Opportunity (E.O. 11246);

52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212); and

52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793).

52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (46 U.S.C. 1241) (flow down not required for subcontracts awarded beginning May 1, 1996).

(FAR 52.212-5)

II.05 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (JAN 1999)

(a) The Contractor agrees to comply with the Defense Federal Acquisition Regulation Supplement (DFARS) Clause 252.247-7023, Transportation of Supplies by Sea, which is included in this contract by reference to implement 10 U.S.C. 2631.

(b) The Contractor agrees to comply with any clause that is checked on the following list of DFARS clauses which, if checked, is included in this contract by reference to implement provisions of law or Executive Orders applicable to acquisitions of commercial items or components.

- ☐ 252.205-7000 Provision of Information to Cooperative Agreement Holders, 10 U.S.C. 2416
- ☐ 252.206-7000 Domestic Source Restriction, 10 U.S.C. 2304
- ☐ 252.219-7003 Small and Small Disadvantaged Business Subcontracting Plan (DoD Contracts), 15 U.S.C. 637
- ☐ 252.225-7001 Buy American Act and Balance of Payments Program, 41 U.S.C. 10a-10-d, E.O. 10582
- ☒ 252.225-7007 Buy American Act -Trade Agreements Act - Balance of Payments Program (☐ Alt I), 41 U.S.C. 10a-10d, 19 U.S.C. 2501-2518, and 19 U.S.C. 3301 note
- ☐ 252.225-7012 Preference for Certain Domestic Commodities
- ☐ 252.225-7014 Preference for Domestic Specialty Metals. - 10 U.S.C. 2341 note
- ☐ 252.225-7015 Preference for Domestic Hand or Measuring Tools. - 10 U.S.C. 2241 note
- ☐ 252.225-7021 Trade Agreements (☐ Alt I), 19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note
- ☐ 252.225-7027 Restriction on Contingent Fees for Foreign Military Sales, 22 U.S.C. 2779
- ☐ 252.225-7028 Exclusionary Policies and Practices of Foreign Governments, 22 U.S.C. 2755
- ☐ 252.225-7029 Restriction on Acquisition of Air Circuit Breakers, 10 U.S.C. 2534(a)93)
- ☒ 252.225-7036 Buy American Act - North American Free Trade Agreement Implementation Act - Balance of Payments Program (☐ Alt I), 41 U.S.C. 10a-10d and 19 U.S.C. 3301 note
- ☐ 252.227-7015 Technical Data Commercial Items, 10 U.S.C. 2320
- ☐ 252.227-7037 Validation of Restrictive Markings on Technical Data, 10 U.S.C. 2321
- ☒ 252.243-7002 Certification of Requests for Equitable Adjustment, 10 U.S.C. 2410
- ☐ 252.247-7024 Notification of Transportation of Supplies by Sea, 10 U.S.C. 2631

(c) In addition to the clauses listed in paragraph (b) of the CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS – COMMERCIAL ITEMS clause of this contract, the Contractor shall include the terms of the following clause, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under the contract.

- ☐ 252.225-7014 Preference for Domestic Specialty Metals, Alternate I (10 U.S.C. 2241 note).

(DFARS 252.212-7001)

ADDENDUM #1
PREAWARD SOLICITATION PROVISIONS

K1.06 DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (APR 1998)

(a) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" followed by the DUNS number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet Information Systems.

(b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. A DUNS number will be provided immediately by telephone at no charge to the offeror. For information on obtaining a DUNS number, the offeror should call Dun and Bradstreet at 1-800-333-0505. The offeror should be prepared to provide the following information:

- (1) Company name
- (2) Company address.
- (3) Company telephone number.
- (4) Line of business.
- (5) Chief executive officer/key manager.
- (6) Date the company was started.
- (7) Number of people employed by the company.
- (8) Company affiliation.

(c) Offerors located outside the United States may obtain the location and phone number of the local Dun and Bradstreet Information Services office from the Internet Home Page at <http://www.dnb.com>. If an offeror is unable to locate a local service center, it may send an email to Dun and Bradstreet at globalinfo@mail.dnb.com.

(FAR 52.204-6)

K33.01 AUTHORIZED NEGOTIATORS (DESC JAN 1998)

The first page of the offer must show names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate with the Government on the offeror's behalf in connection with this solicitation. The offeror or quoter represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals or quotations.

K45.01 FACSIMILE OR ELECTRONIC INVOICING (DESC JAN 1998)

(a) FACSIMILE INVOICING.

- (1) Submission of invoices by facsimile (FAX) is authorized when the offeror will utilize this method of invoicing at all times.
- (2) Offeror shall indicate whether or not he intends to submit invoices via FAX:

☐ YES ☐ NO

- (3) See the SUBMISSION OF INVOICES FOR PAYMENT clause for FAX invoicing procedures.

(4) RETURN OF INVOICES BY THE PAYING OFFICE.

(i) Invoices deemed improper in accordance with the Prompt Payment Act may be returned to the offeror via FAX with the reason for return.

- (ii) The offeror's FAX number for returning improper invoices is--

 (For overseas locations, include the country code)

(b) ELECTRONIC INVOICING (EDI)

(1) Electronic submission of invoices via Electronic Data Interchange (EDI) for all applicable items (as defined in the SUBMISSION OF INVOICES FOR PAYMENT clause) is authorized when the offeror will utilize this method of invoicing at all times for those affected items.

- (2) The offeror shall indicate whether it intends to submit electronic invoices via EDI.

☐ YES ☐ NO

- (3) See the SUBMISSION OF INVOICES FOR PAYMENT for electronic invoicing procedures.

K85 DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY (MAR 1998)

(a) **DEFINITIONS.** As used in this provision--

(1) **Government of a terrorist country** includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.

(2) **Terrorist country** means a country determined by the Secretary of State, under Section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for acts of international terrorism. As of the date of this provision, terrorist countries include Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

(3) **Significant interest**, as used in this provision means--

(i) Ownership of or beneficial interest in 5 percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding 5 percent or more of any class of the firm's securities in "nominee shares," "street names," or some other method of holding securities that does not disclose the beneficial owner;

(ii) Holding a management position in the firm, such as director or officer;

(iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(v) Holding 50 percent or more of the indebtedness of a firm.

(b) **PROHIBITION ON AWARD.** In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) **DISCLOSURE.**

If the government of a terrorist country has a significant interest in the offeror or a subsidiary of the offeror, the offeror shall disclose such interest in an attachment to its offer. If the offeror is a subsidiary, it shall also disclose any significant interest each government has in any firm that owns or controls the subsidiary. The disclosure shall include--

(1) Identification of each government holding a significant interest; and

(2) A description of the significant interest held by each Government.

(DFARS 252.209-7001)

K86 FOREIGN TAXES (DESC JUN 1987)

As stated in the TAXES - FOREIGN FIXED-PRICE CONTRACTS clause, unless the contract provides otherwise, the contract price must include all applicable taxes and duties. In accordance with the TAXES - FOREIGN FIXED-PRICE CONTRACTS clause, the offeror shall list below, in paragraph (a), the specific name and amount of the foreign taxes included in the price. If, when permitted by the contract, foreign taxes are not included in the offered price but are expected to be invoiced separately, the offeror shall list the specific name and amount of these taxes in paragraph (b) below.

(a) Foreign taxes included in the contract price are as follows:

NAME OF TAX

AMOUNT

(b) Foreign taxes invoiced separately are as follows:

NAME OF TAX

AMOUNT

(DESC 52.229-9F16)

L2.10-1 SUBMISSION OF OFFERS IN U.S. CURRENCY (APR 1991)

Offers submitted in response to this solicitation shall be in terms of U.S. dollars. Offers received in other than U.S. dollars shall be rejected.
(FAR 52.214-35)

L2.11-2 FACSIMILE PROPOSALS (OCT 1997)

(a) **DEFINITION. Facsimile proposal**, as used in this provision, means a proposal, revision, or modification of a proposal, or withdrawal of a proposal that is transmitted to and received by the Government via facsimile machine.

(b) Offerors may submit facsimile proposals as responses to this solicitation. Facsimile proposals are subject to the same rules as paper proposals.

(c) The telephone number of receiving facsimile equipment is **703-767-8506**.

(d) If any portion of a facsimile proposal received by the Contracting Officer is unreadable to the degree that conformance to the essential requirements of the solicitation cannot be ascertained from the document—

(1) The Contracting Officer immediately shall notify the offeror and permit the offeror to resubmit the proposal;

(2) The method and time for resubmission shall be prescribed by the Contracting Officer after consultation with the offeror; and

(3) The resubmission shall be considered as if it were received at the date and time of the original unreadable submission for the purpose of determining timeliness, provided the offeror complies with the time and format requirements for resubmission prescribed by the Contracting Officer.

(e) The Government reserves the right to make award solely on the facsimile proposal. However, if requested to do so by the Contracting Officer, the apparently successful offeror promptly shall submit the complete original signed proposal.

(FAR 52.215-5)

L5.01 AGENCY PROTESTS (DESC AUG 1997) - DLAD

(a) Parties protesting this procurement may file a protest (1) with the Contracting Officer, (2) with the General Accounting Office, or (3) pursuant to Executive Order 12979, with the DESC Commodity Business Unit Director.

(b) Protests filed with the Director, DESC Commodity Business Unit, pursuant to Executive Order 12979 should be addressed to the Contracting Officer, but should clearly state that they are an “Agency Level Protest under Executive Order 12979.” The Contracting Officer will forward the protest to the DESC Director of the appropriate commodity business unit for a decision. (This process allows for a higher level decision on the initial protest, it is not a review of a Contracting Officer’s decision on a protest filed with the Contracting Officer.)

(c) Absent a clear indication of the intent to file an agency level protest under Executive Order 12979, protests will be presumed to be protests to the Contracting Officer.

(d) To the maximum extent possible, all parties shall use their best efforts to resolve concerns at the Contracting Officer level through frank and open discussions.

(DLAD 52.233-9000, revised)

L203 HANDCARRIED OFFERS AND EXPRESS DELIVERY SERVICE (DESC JAN 1998)

(a) Any handcarried offer must be received at the depository indicated on the Standard Form (SF) 33 or SF 1449 of this solicitation by the date and time specified for receipt of offers. Evidence to establish the time of receipt at the Government installation is the time/date stamp of that installation on the solicitation wrapper or other documentary evidence of receipt maintained by the installation.

(b) Offers delivered by an express delivery service will be considered "handcarried." Therefore, bidders/offerors that respond to this solicitation using an express delivery service must ensure that the express delivery service "handcarries" the offer to the depository indicated on the SF 33 or SF 1449.

(c) The term **express delivery service** does not include Express Mail delivered by the United States Postal Service. Express Mail will be considered "mail" under the LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS provision or the Late Offers paragraph of the INSTRUCTIONS TO OFFERORS - COMMERCIAL ITEMS or INSTRUCTIONS TO OFFERORS - COMPETITIVE ACQUISITIONS provision.

(DESC 52.252-9F01)

M2.09 EVALUATION OF OFFERS (PC&S) (TURKEY COUPONS) (DESC FEB 1995)

(a) Only offers covering the total requirement for the designated coupon items under the one-year period will be considered, i.e., offers will have to be made against all line items designated as coupon items for the 12 months' requirements.

(b) Evaluation will be made by determining the aggregate low offer arrived at by multiplying the unit prices by the estimated quantities for each item listed as a coupon requirement item over the 12-month delivery period.

M19.10 EVALUATION OF OFFERS SUBJECT TO ECONOMIC PRICE ADJUSTMENT (RFP) (DESC JAN 1998)

(a) Offers on an escalated price basis will be subject to all terms and conditions of the ECONOMIC PRICE ADJUSTMENT clause.

(b) Final Proposal Revision (FPR) prices, with any increases or decreases in the reference price through the date and time set for FRPs, will be used in evaluating offers.

(c) If no FPR is submitted, the original offer, with any increases or decreases in the reference price through date set for FRPs, will be used in evaluating offers.
(DESC 52.215-9F19)

M55 CONVERSION FACTORS (DESC APR 1998)

(a) This provision applies to all products except lubricating oils.

(b) The offeror should use conversion factors that reflect its product characteristics and submit prices and transportation rates in the requested units. In the event prices or transportation rates are not submitted in the requested units, the following conversion factors based on an assumed density for the product will be used by DESC in the evaluation of the offer.

(1) TABLE I.

One Imperial Gallon	=	1.20095 U.S. Gallons at the same temperature
One Liter	=	0.264172 U.S. Gallons at the same temperature
One Cubic Meter (1,000 liters)	=	6.2898 Barrels at the same temperature
One U.S. Barrel	=	42 U.S. Gallons at the same temperature
One Kilometer	=	0.62137 Miles
One Mile	=	1.6093 Kilometers
One Nautical Mile	=	1.15 Statute Miles

(2) TABLE II.

PRODUCT	DENSITY TYPICAL		BARRELS PER METRIC TON	GALLONS PER METRIC TON	LITERS PER METRIC TON	BARRELS PER LONG TON	GALLONS PER LONG TON
	@ 15°C	@ 60°F					
	Kg/m ³	API					
AUTOMOTIVE							
GASOLINE (ALL)	744.9	58.4	8.462	355.42	1342.46	8.598	361.12
AVIATION							
GASOLINE (ALL)	716.3	66.0	8.801	369.66	1396.06	8.943	375.59
BURNER FUEL OILS							
FUEL OIL NO. 1	812.8	42.5	7.753	325.61	1230.31	7.877	330.83
FUEL OIL NO. 2	846.9	35.5	7.440	312.49	1180.78	7.560	317.51
FUEL OIL NO. 4	914.2	23.2	6.891	289.44	1093.85	7.002	294.09
FUEL OIL							
NO. 5 LIGHT	954.2	16.7	6.602	277.27	1048.00	6.707	281.71
FUEL OIL NO.							
5 HEAVY	960.7	15.7	6.557	275.39	1040.91	6.662	279.81
FUEL OIL NO. 6	976.6	13.3	6.450	270.90	1023.96	6.554	275.25

M55 (CONT'D)DIESEL FUELS

DFA	810.5	43.0	7.775	326.54	1233.81	7.900	331.79
DF1	818.9	41.2	7.695	323.17	1122.15	7.818	328.36
DF2/GAS OIL	839.3	37.0	7.507	315.30	1191.47	7.628	320.36

INTERMEDIATE FUEL OILS

IFO 60	947.2	17.8	6.651	279.33	1055.74	6.757	283.81
IFO 180	965.3	15.0	6.526	274.09	1035.95	6.630	278.48
IFO 220	967.9	14.6	6.508	273.34	1033.16	6.612	277.72
IFO 380	973.9	13.7	6.468	271.65	1026.68	6.572	276.01

JET FUELS

JP4/JET B	764.6	53.5	8.243	346.22	1307.87	8.376	351.78
JP5	819.9	41.0	7.686	322.80	1219.66	7.809	327.98
JP8/JET A1	805.9	44.0	7.820	328.42	1240.85	7.945	333.69
JET A	814.2	42.2	7.739	325.04	1228.20	7.863	330.26

KEROSINES (ALL)	815.2	42.0	7.730	324.68	1226.69	7.854	329.88
MARINE GAS OIL	839.3	37.0	7.507	315.30	1191.47	7.628	320.36
NAPHTHA	731.1	62.0	8.623	362.16	1367.80	8.761	367.97
NAVAL DISTILLATE FUEL (F76)							
AND DFW (F75)	844.3	36.0	7.463	313.43	1184.41	7.582	318.46

(3) **TABLE III.**

<u>PRODUCT</u>	<u>ASSUMED DENSITY</u> <u>20 deg C/20 deg C</u>		
	<u>g/mL</u>	<u>lb/gal</u>	<u>Kg/gal</u>
FSII DIEGME	1.025	8.561	3.884

(DESC 52.215-9F05)

M72 EVALUATION OF OFFERS (EXCEPTIONS/DEVIATIONS) (DESC APR 1997)

- (a) Offerors are expected to submit offers in full compliance with all terms and conditions of this solicitation.
- (b) Any exceptions/deviations to the terms and conditions of this solicitation will result in the Government's determination that

either--

- (1) The exception/deviation is material enough to warrant rejection of the offer in part or in full; or
- (2) The exception/deviation is acceptable.

(c) If the exception/deviation is in reference to a specification contained in this solicitation and the offeror cannot supply product fully meeting the required specification(s), the product can be offered for consideration provided the offeror clearly indicates, by attachment to the offer, the extent to which any product offered differs from the required specification(s).

(d) If the exception/deviation is in reference to a particular test, inspection, or testing method contained in this solicitation, the offer can be considered provided the offeror clearly indicates, by attachment to the offer, the extent to which its offer differs from those requirements.

(e) If the exception/deviation is determined acceptable, offered prices may be adjusted, for evaluation purposes only, by the Government's best estimate of the quantitative impact of the advantage or disadvantage to the Government that might result from making an award under those circumstances.

LIST OF ATTACHMENTS

THE FOLLOWING ARE INCLUDED IN THIS SOLICITATION:

[X]	DD FORM 1707, INFORMATION TO OFFERORS OR QUOTERS	COVER SHEET
[X]	SF 1449: SOLICITATION/CONTRACT/ORDER TO COMMERCIAL ITEMS	PAGE 1
[X]	OFFEROR SUBMISSION PACKAGE	SEPARATE COVER

ADDENDUM #2
POSTAWARD CONTRACT CLAUSES

B19.02 ECONOMIC PRICE ADJUSTMENT (OVERSEAS) (DESC OCT 1993)

The Contractor warrants that--

- (a) The unit prices set forth in this contract do not include any contingency allowance to cover the possibility of increases in the reference price(s) in the Contractor's offer; and
- (b) The prices to be invoiced hereunder for listed items shall be computed in accordance with these escalation provisions.

PART A - DEFINITIONS

As used throughout this clause--

- (a) The term **listed items** means the items of Section B of the Schedule that are listed in the Reference Price Tabulation in Part C of this clause and are the only items to which price adjustment shall apply, unless otherwise provided in the contract schedule.
- (b) The term **award price** means the unit price offered for an item and included in the contract award schedule.
- (c) The term **reference price** means the independent index or established price set forth in this clause with which the award price is to fluctuate. The reference price should be a price for the same or similar product(s) as the item being purchased.
- (d) The term **independent index** means an index measuring the general rate and direction of price movements for a commodity within a market which is beyond the control of the Contractor. Examples of such indices would include a wholesale price index such as published by the Bureau of Labor Statistics.
- (e) The term **established price** means one which (1) is an established catalog or market price for a commercial item sold in substantial quantities to the general public, and (2) meets the criteria of paragraph 15.804-3(c) of the Federal Acquisition Regulation. It is established in the usual and ordinary course of trade between the seller (which maintains it) and buyers who are free to bargain. It is a price included in a catalog, price list, Schedule, or other form that is regularly maintained by the manufacturer or vendor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public. A commercial item is one that is regularly used for other than Government purposes and is sold or traded in the course of conducting normal business operations. Commercial items are sold to the general public when all of the following criteria are met: (1) Sales to the general public are not negligible in themselves and total 55% or more of all sales made; (2) 75% or more of those sales made to the general public are made at the established price. An item is sold to the general public if it is sold to other than affiliates of the seller for end use by other than the Government. Items sold to affiliates of the seller and sales for end use by the Government are not sales to the general public.
- (f) The term **date of delivery** means--
 - (1) The date and time vessel begins to load where the contract calls for delivery at origin into tanker or barge;
 - (2) The date and time vessel begins to discharge where the contract calls for delivery at destination by tanker or barge;
 - (3) The date and time product commences to move past the specified f.o.b. point where the contract calls for delivery by pipeline;
 - (4) The date product is received for all methods of delivery other than (1), (2), and (3) above.

PART B - PRICE ADJUSTMENTS

- (a) The Contractor shall notify the **Defense Energy Support Center - Europe (DESC-EU), Augusta Str. 6, 65189 Wiesbaden, Germany** of any change in the reference price by telegram dated (preferably confirmed promptly by letter), registered letter mailed, or unregistered letter received within 14 days from the date thereof.
 - (1) If the Contractor fails to give notice of any increase in reference price, such increase shall apply only to deliveries made on or after the date of receipt by the Contracting Officer of a written notification from the Contractor of such increase.
 - (2) If the Contractor fails to give notice of a decrease in the reference price, such decrease shall apply to all deliveries made on or after the date of such decrease.
- (b) The prices payable under this contract for listed items shall be the award price for the listed item increased or decreased by the amount, determined according to the formula in (c) below, that the reference price for the listed item shall have increased or decreased, to and including the date of delivery.
- (c) The amount of increase or decrease in the award price shall be--
 - (Check appropriate box and complete applicable blanks)
 - ☐ the same number of cents, or fraction thereof, that the reference price increases or decreases per like unit of measure.

B19.02 (CONT'D)

☐ the number of cents, or fraction thereof, determined by the ratio of \$_____ per gallon for each \$_____ per barrel that the reference price increases or decreases.

☐ the number of cents, or fraction thereof, at the rate of \$_____ per gallon for each \$_____ per barrel that the reference price increases or decreases.

(d) If this clause requires quantity conversion for economic price adjustment purposes, the conversion factors for applicable products, as specified in the CONVERSION FACTORS clause, apply unless otherwise specified in the Schedule.

(e) The Contracting Officer will issue a modification to this contract to reflect any change pursuant to this clause. However, no modification incorporating an increase in a contract unit price shall be executed pursuant to this clause until the increase in the applicable reference price has been verified by the Contracting Officer.

(f) Notwithstanding any other provision of this clause, no upward adjustment shall apply to supplies that are required to be delivered prior to the effective date of the adjustment unless the Contractor's failure to deliver in accordance with the delivery schedule arises from causes beyond the control and without the fault or negligence of the Contractor within the meaning of the DEFAULT clause of this contract in which case the contract shall be amended to make an equitable extension of the delivery schedule.

(g) Notwithstanding any provision of this clause to the contrary, the prices payable under this contract shall in no event exceed either the lower of--

(1) The Contractor's posted or established selling price in effect on the date of delivery for the product supplied in the form of delivery made at the point of delivery, or

(2) The maximum prices shown in Column VII of the Reference Price Tabulation in Part C, in accordance with (h) below.

(h) **UPWARD CEILING ON ECONOMIC PRICE ADJUSTMENT.** The Contractor agrees that the total increase in any contract unit price shall not exceed **60** percent of the award price during the first program year or of the unit price in effect as of the start of any subsequent program year (if this is a long-term or multiyear program), except as provided hereafter:

(1) If at any time the Contractor has reason to believe that within the near future a price adjustment under the provisions of this clause will be required that will exceed the current contract ceiling price for the item(s), the Contractor shall promptly notify the Contracting Officer in writing of the expected increase. The notification shall include a revised ceiling sufficient to permit completion of remaining contract performance, along with appropriate explanation and documentation as required by the Contracting Officer.

(2) If, in the absence of an agreement on a new ceiling, written notification is given to the Contracting Officer of an actual price change resulting in a contract unit price that exceeds the current ceiling, the Contractor shall have no further obligation under this contract to fill pending or future orders for the specific line item(s) in question as of the effective date of the increase, as long as the unit price exceeds the ceiling. If, however, notwithstanding the lack of agreement on a new ceiling, the Contracting Officer indicates in writing that the Government is prepared to purchase the line item(s) for an adjusted price that exceeds the current ceiling, the Contractor shall be obligated to continue to honor orders placed for the specific line item in question.

PART C - REFERENCE PRICES

(a) The reference price with which the award price for the listed item is to fluctuate (and which is more fully defined in the Reference Price Tabulation below) is--

☐ (1) The low price published in _____.
(name of publication)

☒ (2) The average of the prices published in **Platt's Oilgram Price Report**.
(name of publication)

☐ (3) The established price posted by _____.
(name of company)

and

published in _____.
(name of publication)

B19.02 (CONT'D)

(b) Where the reference price is an established price (see (a)(3) above), the Contractor warrants that the product selected is one for which, except for modification required by the specifications of this contract, the Contractor has an established price. Such price is the net price after applying any applicable standard trade discounts offered by the Contractor for his catalog, list, or schedule price. The Contractor further warrants that, as of the current date, any differences between the unit prices of the line items identified in the Schedule, and the Contractor's established price for like quantities of the nearest commercial equivalents of such contract items are due to compliance with contract specifications and to compliance with any requirements which this contract may contain for preservation, packaging, and packing beyond standard commercial practice.

(c) An increase or decrease in any reference price published in a trade price service or in a commercial journal shall apply only to deliveries made on or after the effective date of such trade price service or commercial journal.

(d) **DISCONTINUATION OR ALTERATION OF PUBLISHED REFERENCE PRICE.** In the event the reference price is an average of published or posted prices, and any one price ceases to be published or posted, or in the event the reference price is published in a trade price service or commercial journal and such publication ceases to publish said reference price or changes its method of quoting prices, the parties shall mutually agree upon an appropriate and comparable substitute for determining the price adjustment described herein. The contract shall be modified to reflect such substitute reference price effective on the date the prior reference price is discontinued or altered. If the parties fail to agree on an appropriate substitute, the matter shall be resolved in accordance with the DISPUTES clause of the contract.

REFERENCE PRICE TABULATION

I	II	III	IV	V	VI	VII
Item No. (listed items)	Name of company/ publication (identify by number from (a) above)	If company - name of product; If publication - heading under which reference price is published and name of product	Location where reference price is applicable	Method of delivery applicable to the reference price	Reference price as of <u>Jan 99</u> (date) (exclude all taxes	Maximum price payable under this contract (includes any tax included in the award price

The recommended escalators for this program are the average (midpoint) monthly postings of the European Bulk Average prices as published in Platt's Oilgram Price Report under the heading "Cargoes FOB Med Basis Italy". For all Gasoline (-79) items, the posting should be PREM UNL (Premium Unleaded); for the Diesel (-78) items, the posting should be GASOIL 0.2; and for the kerosene (-81) items, the posting should be JET KEROSENE.

Offered prices for all products are to be based on the referenced Platt's postings for the month of February 1999.

Be sure to include the base reference price for each product in your offer.

(DESC 52.216-9FAA)

C1 SPECIFICATIONS (DESC JAN 1997)

Product to be supplied shall fully meet the requirements of the applicable specification(s) as indicated in the Supply Schedule, except as modified elsewhere in this contract. Unless otherwise indicated by the Contractor, prior to award and in accordance with the EVALUATION OF OFFERS clause, the product offered will be assumed to fully meet the applicable specification(s).

(DESC 52.246-9FT5)

C1.02 DODISS SPECIFICATIONS (DESC DEC 1998)

Unless otherwise specified, the issues of Federal and Military specifications, standards, and related standardization documents and those non-Government standards adopted for Department of Defense use, which are cited in this solicitation/contract, are those listed in the Department of Defense Index of Specifications and Standards (DODISS) dated September 1, 1998, and its supplement dated November 1, 1998.

(DESC 52.246-9FT1)

F4 DELIVERY AND ORDERING PERIODS (DESC AUG 1976)

(a) The period of this contract during which the Ordering Officer may order and the Contractor shall deliver, if ordered, will be as follows unless the Schedule specifies otherwise:

(1) Ordering period begins: Date of Award and ends: 30 June 2001.

(2) Delivery period begins: 01 July 1999 and ends: (See special Note 8 under Clause B19.02).

(b) Notwithstanding the foregoing, deliveries prior to the delivery period, made at the option of the Contractor and pursuant to an order by the Government, shall be deemed to have been made under this contract at the applicable contract price(s).

(DESC 52.242-9F75)

F30.01 ORDERING AND PAYING OFFICERS (OVERSEAS PC&S) (DESC APR 1998)

(a) Ordering and Paying Officers under the contract are as indicated below:

ITEM NO.

ORDERING OFFICER

PAYING OFFICER

(b) The Commanding Officer or his designated representative of the cognizant requiring activity is authorized to make any necessary changes to this listing, or make additional assignments for requirements not covered by the foregoing. Such changes or assignments shall be made by written notification to the Contractor, with a copy to the Contracting Officer.

(c) If Ordering and Paying Officers cannot be ascertained under (a) or (b) above, the following activities, as applicable, should be contacted:

(DESC 52.216-9FB1)

G3 INVOICE NUMBERING REQUIREMENTS (DESC AUG 1998)

Each invoice submitted for payment under this contract shall be identified by an individual invoice number. The number shall not be duplicated on subsequent invoices. Duplicate invoice numbers or invoices that do not include numbers may be rejected.

G3.01 PAYMENT DUE DATE (DESC OCT 1988)

When payment due date falls on a Saturday or Sunday, or on a United States Official Federal holiday, payment will be due and payable on the following workday.

G9.06 ADDRESS TO WHICH REMITTANCE SHOULD BE MAILED (DESC OCT 1997)

Remittances shall be mailed only at the Government's option or where an exception to payment by Electronic Funds Transfer (EFT) applies. (See the MANDATORY INFORMATION FOR ELECTRONIC FUNDS TRANSFER PAYMENT clause.)

Offeror shall indicate below the complete mailing address (including the nine-digit zip code) to which remittances should be mailed if such address is other than that shown in Block 15a (Standard Form (SF) 33) for noncommercial items or Block 17a (SF 1449) for commercial items. In addition, if offeror did not incorporate its nine-digit zip code in the address shown in Block 15a of the SF 33 or in Block 17a of the SF 1449, the offeror shall enter it below:

(a) Payee Name (Contractor): _____
(DO NOT EXCEED 25 CHARACTERS)

(b) Check Remittance Address:

(DO NOT EXCEED 30 CHARACTERS PER LINE)

(c) Recipient Name (authorized individual representing the Contractor/courier for check pick-up).
Leave blank if check is to be mailed.

(DO NOT EXCEED 25 CHARACTERS)

(d) Narrative Information (special instructions).

(DO NOT EXCEED 153 CHARACTERS)

G18 ACCOUNTING AND APPROPRIATION (DESC FEB 1968)

The account for which material is ordered will determine the appropriation or fund to be charged with the cost of the material in each case. The appropriation or fund as applicable in each case will be conspicuously shown on each order issued hereunder.

G150.07 SUBMISSION OF INVOICES FOR PAYMENT (OVERSEAS PC&S) (DESC JUN 1994)

(a) **GENERAL.** This contract is for overseas fuel deliveries for posts, camps, and stations. Invoices will be paid on the basis of the Contractor's delivery to the point of first receipt by the Government.

(b) **RESPONSIBILITY FOR SUPPLIES.** Title to the supplies shall vest in the Government upon delivery to the point of first receipt by the Government. Notwithstanding any other provision of the contract, the Contractor shall assume all responsibility and risk of loss for supplies (1) not received at destination, (2) damaged in transit, or (3) not conforming to purchase requirements. The Contractor shall either replace, or correct, such supplies promptly at its expense, provided instructions to do so are furnished by the Contracting Officer within 90 days from the date title to the supplies vests in the Government.

(c) **PREPARATION OF INVOICE.** Upon delivery of supplies to the point of first receipt by the Government, the Contractor shall prepare an invoice in accordance with the terms of this contract. (For Germany only, the Contractor shall invoice all products using liters, except for FO6, which will be invoiced in kilograms. See the ECONOMIC PRICE ADJUSTMENT clause for more detailed invoicing instructions.) A receipted copy of the Contractor's delivery document shall be attached to the invoice as evidence of delivery. The Contractor's invoice together with the Contractor's delivery document shall be the basis for payment. Invoices shall be forwarded to the applicable Paying Office in accordance with instructions contained on the order.

(d) **CERTIFICATION OF INVOICE.** The Contractor agrees that the submission of an invoice to the Government for payment is a certification that the supplies for which the Government is being billed have been delivered in accordance with instructions issued by the Ordering Officer, in the quantities shown on the invoice, and that such supplies are in the quantity designated by the order and of the quality designated by the contract.

(e) **RECEIVING REPORT.** Each order requires the preparation of a Material Inspection and Receiving Report (DD Form 250). Notwithstanding any other provision in this contract, the Government representative will prepare the DD Form 250 and forward it directly to the paying office with a copy to the Contractor. In the event of a discrepancy between the quantities stated on the DD Form 250 and those stated on the invoice, the DD Form 250 quantities shall prevail, and a debit or credit issued on subsequent vouchers, as appropriate.

I1.01-1 DEFINITIONS (DESC FEB 1998)

As used throughout this contract, the following terms shall have the meanings set forth below.

(a) **Quality Representative (QR)** includes the terms Quality Assurance Representative (QAR) and Quality Surveillance Representative (QSR).

(1) The QAR is a Government Representative authorized to represent the Contracting Officer to assure the Contractor complies with the contractual requirements in furnishing petroleum products and services.

(2) The QSR is a Government Representative authorized to represent the Contracting Officer to assure the Contractor complies with the contractual requirements in furnishing services.

(b) **Ordering Officer** means whichever of the following or their designated representatives is applicable: (1) the Commander, Defense Energy Support Center; (2) the Commander, Defense General Supply Center; (3) the Commander, U.S. Army Petroleum Center; (4) the Commanding Officer, U.S. Navy Petroleum Office; (5) the Director of Air Force Aerospace Fuels; (6) the Chief of the Air Force Aerospace Fuels Office; (7) the Officer in charge of the Federal Government activity encompassing any delivery point indicated in the Schedule; (8) the Commanding Officer or the Master of the vessel to be bunkered; (9) any Government Contractor furnishing evidence of authority to order under this contract; (10) the head of any Federal Government agency; (11) the pilot, the flight commander, the aircraft commander or the crew chief of the U.S. designated aircraft authorized to place orders against into-plane contracts; (12) the Contracting Officer; (13) the individual in charge of ordering coal at the receiving Government activity; (14) the driver of a Federal vehicle or boat, or the pilot of a Federal aircraft authorized to place orders under a service station contract; (15) the Navy Fleet Commanders; (16) the Defense Attaché Officer; (17) the authorized ship manager (contractor) for the Maritime Administration who is ordering ships' bunkers on behalf of Maritime Administration vessels; (18) the ships' husbanding agent, furnishing evidence of contractual authority, who passes the order (verbal or written) on behalf of the requesting government vessel.

(c) The acronym **TK** means tanker, **B** means barge, **TC** means tank car, **T** means truck, **TT** means transport truck, **TTR** means truck and trailer, **TW** means tank wagon, **P** means pipeline, and **MSS** means Marine Service Station. The acronyms or terms **TT** or **transport truck** and **TTR** or **truck and trailer** mean tank truck equipment, whereas the acronym or term **T** or **truck** means truck equipment for hauling drummed or packaged supplies. The acronym **SW** means supplier's works, **CFD** means Contractor-furnished drum, and **GFD** means Government-furnished drum.

(DESC 52.202-9F01)

11.22-1 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

(a) If the Government receives information that a Contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the 1996 National Defense Authorization Act for Fiscal year 1996 (Pub. L. 104-106), the Government may--

(1) Cancel the solicitation, if the contract has not yet been awarded or issued; or

(2) Rescind the contract with respect to which--

(i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct constitutes a violation of subsection 27(a) or (b) of the Act for the purpose of either--

(A) Exchanging the information covered by such subsections for anything of value; or

(B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsection 27(e)(1) of the Act.

(b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

(FAR 52.203-8)

111.01-2 ADMINISTRATIVE COST OF TERMINATION FOR CAUSE -- COMMERCIAL ITEMS (DESC FEB 1996)

(a) In the event this contract is terminated for cause, in whole or in part, the Government will incur administrative costs.

(b) The Contractor agrees to pay all administrative costs associated with a contract termination action. The minimum amount the Contractor shall pay for each termination action is \$500. This payment for administrative costs is in addition to any excess procurement costs and any other remedies or damages resulting from the termination.

(c) The term **termination action**, as used herein, means the termination for cause, including any associated procurement effort, involving--

(1) Any single order or any group of orders terminated together;

(2) Any item or group of items terminated together; or

(3) The entire contract.

111.04 BANKRUPTCY (JUL 1995)

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract. (FAR 52.242-13)

127 GRATUITIES (APR 1984)

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative--

(1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and

(2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) above, the Government is entitled--

(1) To pursue the same remedies as in a breach of the contract; and

(2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(FAR 52.203-3)

128.21 TAXES - FOREIGN FIXED-PRICE CONTRACTS (JAN 1991)

(a) To the extent that this contract provides for furnishing supplies or performing services outside the United States, its possessions, and Puerto Rico, this clause applies in lieu of any Federal, State, and local taxes clause of the contract.

(b) "Contract date," as used in this clause, means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

"Country concerned," as used in this clause, means any country, other than the United States, its possessions, and Puerto Rico, in which expenditures under this contract are made.

"Tax" and "taxes," as used in this clause, include fees and charges for doing business that are levied by the government of the country concerned or by its political subdivisions.

"All applicable taxes and duties," as used in this clause, means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract, pursuant to written ruling or regulation in effect on the contract date.

"After-imposed tax," as used in this clause, means any new or increased tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, other than excepted tax, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date.

"After-relieved tax," as used in this clause, means any amount of tax or duty, other than an excepted tax, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund, as the result of legislative, judicial, or administrative action taking effect after the contract date.

"Excepted tax," as used in this clause, means social security or other employment taxes, net income and franchise taxes, excess profits taxes, capital stock taxes, transportation taxes, unemployment compensation taxes, and property taxes. "Excepted tax" does not include gross income taxes levied on or measured by sales or receipts from sales, property taxes assessed on completed supplies covered by this contract, or any tax assessed on the Contractor's possession of, interest in, or use of property, title to which is in the U.S. Government.

(c) Unless otherwise provided in this contract, the contract price includes all applicable taxes and duties, except taxes and duties that the Government of the United States and the government of the country concerned have agreed shall not be applicable to expenditures in such country by or on behalf of the United States.

(d) The contract price shall be increased by the amount of any after-imposed tax or of any tax or duty specifically excluded from the contract price by a provision of this contract that the Contractor is required to pay or bear, including any interest or penalty, if the Contractor states in writing that the contract price does not include any contingency for such tax and if liability for such tax, interest, or penalty was not incurred through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer or to comply with the provisions of paragraph (i) below.

(e) The contract price shall be decreased by the amount of any after-relieved tax, including any interest or penalty. The Government of the United States shall be entitled to interest received by the Contractor incident to a refund of taxes to the extent that such interest was earned after the Contractor was paid by the Government of the United States for such taxes. The Government of the United States shall be entitled to repayment of any penalty refunded to the contractor to the extent that the penalty was paid by the Government.

(f) The contract price shall be decreased by the amount of any tax or duty, other than an excepted tax, that was included in the contract and that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer or to comply with the provisions of paragraph (i) below.

(g) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(h) If the Contractor obtains a reduction in tax liability under the United States Internal Revenue Code (Title 26, U.S. Code) because of the payment of any tax or duty that either was included in the contract price or was the basis of an increase in the contract price, the amount of the reduction shall be paid or credited to the Government of the United States as the Contracting Officer directs.

(i) The Contractor shall take all reasonable action to obtain exemption from or refund of any taxes or duties, including interest or penalty, from which the United States Government, the Contractor, any subcontractor, or the transactions or property covered by this contract are exempt under the laws of the country concerned or its political subdivisions or which the governments of the United States and of the country concerned have agreed shall not be applicable to expenditures in such country by or on behalf of the United States.

(j) The Contractor shall promptly notify the Contracting Officer of all matters relating to taxes or duties that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs. The contract price shall be equitably adjusted to cover the costs of action taken by the Contractor at the direction of the Contracting Officer, including any interest, penalty, and reasonable attorneys' fees.

(FAR 52.229-6)

I33 INTEREST (JUN 1996)

(a) Except as otherwise provided in this contract under a PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA clause or a COST ACCOUNTING STANDARDS clause, all amounts that become payable by the Contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481)) shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in paragraph (b) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(b) Amounts shall be due at the earliest of the following dates:

(1) The date fixed under this contract.

(2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.

(3) The date the Government transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt.

(4) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.

(c) The interest charge made under this clause may be reduced under the procedures prescribed in 32.614-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(FAR 52.232-17)

THE FOLLOWING CLAUSE APPLIES TO UNRESTRICTED ITEMS ONLY AND, IF APPLICABLE, ANY TOTAL SET-ASIDE ITEMS.

I84 REQUIREMENTS (OCT 1995)

(a) This is a requirements contract for the supplies or services specified, and effective for the period stated in the Schedule. The quantities of supplies or services specified in the Schedule are estimates only and are not purchased by this contract. Except as this contract may otherwise provide, if the Government's requirements do not result in orders in the quantities described as "estimated" or "maximum" in the Schedule, that fact shall not constitute the basis for an equitable price adjustment.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the ORDERING clause. Subject to any limitations in the ORDER LIMITATIONS clause or elsewhere in this contract, the Contractor shall furnish to the Government all supplies or services specified in the Schedule and called for by orders issued in accordance with the ORDERING clause. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(c) Except as this contract otherwise provides, the Government shall order from the Contractor all the supplies or services specified in the Schedule that are required to be purchased by the Government activity or activities specified in the Schedule.

(d) The Government is not required to purchase from the Contractor requirements in excess of any limit on total orders under this contract.

(e) If the Government urgently requires delivery of any quantity of an item before the earliest date that delivery may be specified under this contract, and if the Contractor will not accept an order providing for the accelerated delivery, the Government may acquire the urgently required goods or services from another source.

(f) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; PROVIDED, that the Contractor shall not be required to make any deliveries under this contract after **30 June 2001 (See Special Note 8 under Clause B19.02).**

(FAR 52.216-21)

I179 ALLOCATION (DESC JUL 1995)

(a) **REDUCED SUPPLIES.** If, for any cause beyond the control and without the fault or negligence of the Contractor, the total supply of crude oil and/or refined petroleum product is reduced below the level that would have otherwise been available to the Contractor, the Contractor allocates to its regular customers its remaining available supplies of crude oil or product, then the Contractor may also allocate to the U.S. Government supplies to be delivered under this contract, PROVIDED--

(1) Prompt notice of and evidence substantiating the necessity to allocate and describing the allocation rate for all the Contractor's customers are submitted to the Contracting Officer;

(2) Allocation among the Contractor's regular customers is made on a fair and reasonable basis (except where allocation on a different basis is required by a governmental authority, agency, or instrumentality); and

(3) Reduction of the quantity of product due the Government under this contract shall not exceed the pro rata amount by which the Contractor reduces delivery to its other customers similarly situated.

(b) **ADDITIONAL SUPPLIES.** If, after the event causing the shortage of crude oil and/or refined petroleum product as described in (a) above, additional supply becomes available to the Contractor, the Contracting Officer may choose any one of the following three possible courses of action:

(1) Accept an updated pro rata reduction as outlined in (a) above;

(2) Determine that continuance of the contract with the quantities as originally stated in the Schedule is in the best interests of the Government; or

(3) Terminate the contract as permitted in (d) below.

(c) **REDUCED DELIVERIES.** If the Contractor believes that a law, regulation, or order of a foreign government requires the Contractor to deliver less than the quantity set forth in the Schedule for any location within that country, the Contractor may request allocation in accordance with (a) above. In addition to the criteria in (a) above, the Contractor's request shall cite--

(1) The law, regulation, or order, furnishing copies of the same;

(2) The authority under which it is imposed; and

(3) The nature of the Government's waiver, exception, and enforcement procedure.--

The Contracting Officer will promptly review the matter and advise the Contractor whether or not the need to allocate has been substantiated. If the law, regulation, or order requiring the Contractor to reduce deliveries ceases to be effective, the Contractor shall resume deliveries in accordance with the original Schedule.

(d) If, as a result of reduced deliveries permitted by (a), (b), or (c) above, the Contracting Officer decides that continuation of this contract is no longer in the best interests of the Government, the Government may terminate this contract or any quantity thereunder, by written notice, at no cost to the Government. However, the Government shall not be relieved of its obligation to pay for supplies actually delivered to and accepted by it.

(e) Except as otherwise stated in (b) above, any volumes omitted pursuant to (a) or (b) above shall be deleted from this contract, and the Contractor shall have no continuing obligation, so far as this contract is concerned, to make up such omitted supplies.

(f) For Posts, Camps, and Stations contracts, Department of Energy priority orders and allocation regulations will take precedence over any conflicting provisions of this clause.

(g) For Bulk Fuels contracts, the provisions contained in (a) above shall be inoperative when the Secretary of Defense makes a written determination that it is essential to the National Defense that the Defense Fuel Supply Center be provided contract volumes exceeding the amount of product to which it would otherwise be entitled.

(DESC 52.249-9F01)

I190.04 MATERIAL SAFETY DATA SHEETS -- COMMERCIAL ITEMS (DESC MAR 1996)

(a) The apparently successful offeror agrees to submit, for each item prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all items to be delivered under this contract. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered nonresponsible and ineligible for award.

(b) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (a) of this clause, the Contractor shall promptly notify the Contracting Officer and resubmit the data.

(c) The Contractor shall submit MSDSs to the Contracting Officer. MSDSs must cite the solicitation number, the applicable CAGE code of the manufacturer, and, where so identified, the National Stock Number (NSN).

(d) The offeror need not submit a duplicate MSDS for a product for which the offeror has submitted an MSDS within the past five years. The MSDS of record must fully comply with the latest revision of FED-STD-313, and the data on the MSDS must still be current and complete. Should the description/composition of the product offered differ in any area specified on a previously submitted MSDS, a new MSDS is required.

I209.09 EXTENSION PROVISIONS (PC&S) (DESC OCT 1994)

(a) The DESC Contracting Officer reserves the right to unilaterally extend this contract on the same terms and conditions one or more times for a total of no more than six months. Notice of contract extension will be furnished to the Contractor 30 days prior to expiration of this contract or any extension thereof. However, nothing in this clause precludes the Contractor from agreeing to an extension of the contract if the DESC Contracting Officer fails to issue the notice within the 30 day time frame.

(b) The foregoing extension may be exercised by the DESC Contracting Officer where continued performance is required until a follow-on contract is awarded or, in the event a follow-on contract has been awarded, until a succeeding Contractor is positioned to commence performance.

(c) Extension of this contract shall be considered to have been accomplished at the time the DESC Contracting Officer provides written notification to the Contractor by facsimile or by mail.

(DESC 52.217-9F08)

I211 ORDERING (OCT 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from 01 July 1999 through 30 June 2001.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally by facsimile, or by electronic commerce methods only if authorized in the Schedule.

(FAR 52.216-18)

I211.02 ORDERING (DESC JAN 1991)

(d) For product funded and paid for by the Defense Logistics Agency, the Contractor will be furnished with a document entitled "Source Identification and Ordering Authorization." This document is for planning purposes only and does not constitute an order under the contract. This document will also indicate the activity(ies) authorized to place orders under this contract. This document does not in any manner modify or limit Contractor's obligation to deliver pursuant to properly placed orders as provided in the contract.

(DESC 52.216-9F12)

[illegible]